

National Association of Regulatory Utility Commissioners

Incorporated

KENNETH GORDON, *President*
Maine Public Utilities Commission
242 State Street
State House Station 18
Augusta, Maine 04333

EX PARTE OR LATE FILED

1102 Interstate Commerce Commission Building
Constitution Avenue and Twelfth Street, N.W.
Washington, D. C. 20423

Mailing Address: Post Office Box 684
Washington, D. C. 20044-0684

Telephone: 202-898-2200
Facsimile: 202-898-2213

ORIGINAL
FILE

DENNIS J. NAGEL, *First Vice President*
Iowa Utilities Board
Lucas State Office Building
Des Moines, Iowa 50319



PAUL RODGERS
Administrative Director
General Counsel

GAILE ARGIRO
Treasurer

RECEIVED

AUG 12 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

KEITH BISSELL, *Second Vice President*
Tennessee Public Service Commission
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

August 12, 1992

Ms. Donna Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: NARUC EX PARTE COMMENTS - Two Copies Filed In the
Proceeding Titled:

In the Matter of the Use of N11 Codes and Other
Abbreviated Dialing Arrangements

CC Docket No. 92-105

Dear Ms. Searcy:

On May 6, 1992, the FCC issued a Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding seeking comments on the proposed use, allocation, and assignment of a limited number of pay-per-call type information services via N11 Local Exchange Carrier ("LEC") service arrangements. The NPRM tentatively concludes that N11 codes should be available for abbreviated dialing unless they're needed as area codes. Initial and Reply Comments were filed on the NPRM on June 5, 1992 and July 25, 1992.

At its July 1992 Meeting, a few days after the final date for filing comments expired, the National Association of Regulatory Utility Commissioners ("NARUC") adopted a resolution which provided information on NARUC positions relevant to this proceeding.

Accordingly, I am, pursuant to 47 C.F.R.1.1206(1), submitting, for the record, two copies of this letter. I have attached a copy of the July Resolution Opposing the Use of N11 Service Codes for Enhanced Service Providers for your information and use.

There are a few aspects of the resolution that I would like to call to the Commission's attention.

No. of Copies rec'd 02/
List ABCDE

COMMITTEES OF THE ASSOCIATION FOR THE 1991-1992 YEAR

COMMITTEE ON ADMINISTRATION (1967)

James A. Burg,* South Dakota, *Chair*
William W. Redman, Jr.,* North Carolina, *Vice Chair*
Thomas P. Harwood, Jr., Virginia
James F. Munnely,* Nebraska
James Sullivan, Alabama
Eric P. Serna, New Mexico SCC
James R. Monk, Indiana URC
Louis J. Lambert, Jr., Louisiana
Daniel G. Urwiller, Nebraska
Patrice Vick, Minnesota PUC
Michael J. Kenney, Connecticut
Carmen J. Armenti, New Jersey
Daniel Wm. Fessler, California

COMMITTEE ON COMMUNICATIONS (1941)

Dennis J. Nagel,* Iowa UB, *Chair*
Thomas M. Beard, Florida, *Vice Chair*
Sharon L. Nelson,* Washington
Bruce Hagen,* North Dakota
Nielsen Cochran, Mississippi
Lilo K. Schifter, Maryland
Andrew C. Barrett, FCC
Gail Garfield Schwartz, New York PSC
Susan M. Knowles,* Alaska
Louis R. Sherman, Canadian RTC, Observer
Preston C. Shannon, Virginia
Marta Greytok,* Texas PUC
Kenneth Gordon,* Maine
Robert O. Wells, North Carolina
Margot Priest, Ontario TSC, Observer
Stephen O. Hewlett, Tennessee
Brian T. Stewart, Utah
Nancy M. Norling,* Delaware
David W. Rolka, Pennsylvania
James J. Malachowski, Rhode Island
Dean J. (Joe) Miller, Idaho
Calvin K. Manshio, Illinois
Line Rochon, Quebec TB, Observer
Charles B. Martin, Alabama
Laska Schoenfelder, South Dakota
G. Richard Klein, Indiana
Kenneth McClure, Missouri PSC
Howard C. Davenport, District of Columbia
Jolynn Barry Butler, Ohio
Norman D. Shumway,* California

COMMITTEE ON ELECTRICITY (1953)

Ashley C. Brown,* Ohio, *Chair*
Robert A. Robertson, Nova Scotia, Observer
John B. Driscoll, Montana
Kenneth D. Stofferahn, South Dakota
James M. Byrne, Utah
William D. Steinmeier,* Missouri PSC
Patricia S. Qualls,* Arkansas
Richard D. Casad, Washington
Vicky A. Bailey,* Indiana
Dale V. Sandstrom, North Dakota
John H. Arnesen, REA, Observer
J. David Newlands, British Columbia, Observer
George T. Watson, Mississippi
Cas Robinson,* Georgia
Deborah L. Louison, DOE, Observer
Ronald E. Russell, Michigan
Otis D. Casto, West Virginia
Elizabeth Paine, Maine
Michael A. Pitlock, Nevada

Kevin Kelly, DOE, Observer
John T. Coughlin, Wisconsin PSC
Lynn Shishido-Toppel, Illinois
Patricia M. Eckert, California
Wendell F. Holland, Pennsylvania
James T. McFarland, New York PSC
J.C. Watts, Jr., Oklahoma
Julius A. Wright, North Carolina
David J. Harrigan, Connecticut
Judith C. Allan, Ontario EB, Observer
Warren D. Arthur, IV, South Carolina
Emmit J. George, Jr., Iowa UB
Robert Gee, Texas PUC

COMMITTEE ON ENERGY CONSERVATION (1984)

Ron Eachus,* Oregon, *Chair*
Gary L. Nakarado, Colorado, *Vice Chair*
Stephen Wiel,* Nevada
Allan C. Mueller, Missouri
Renz D. Jennings, Arizona
Cynthia A. Kitlinski, Minnesota PUC
Carl A. Wolf, Jr., Ontario EB, Observer
Richard Cowart, Vermont
Donald D. Phillips, Delaware
George E. Overbey, Jr., Kentucky PSC
Daniel Patrick O'Tierney, Alaska
Larry M. Smukler, New Hampshire
Edward M. Meyers, District of Columbia
William D. Cotter, New York PA
Mac Barber, Georgia
Bob Anderson, Montana
Rachel C. Lipman, Kansas
Steve Ellenbecker, Wyoming
Robert C. Yardley, Jr., Massachusetts
Mary M. McInerney, New Mexico PSC
Paul E. Hanaway, Rhode Island
Craig A. Glazer, Ohio
Susan F. Clark, Florida
Allyson K. Duncan, North Carolina

COMMITTEE ON FINANCE AND TECHNOLOGY (1985)

Bil Tucker,* Wyoming, *Chair*
Belva Newsome, District of Columbia, *Vice Chair*
Orville J. Cook, Ontario EB, Observer
Marcia G. Weeks, Arizona
Joseph Rhodes, Jr., Pennsylvania
Ralph Nelson, Idaho
Leonard U. Wilson, Vermont
Sam I. Bratton, Jr., Arkansas
Edmund R. Skelcher, Ontario TSC, Observer
Cheryl L. Parrino, Wisconsin PSC
Lawrence B. Ingram, New Mexico PSC
Evan W. Woolcott, Connecticut
J. Terry Deason, Florida
Richard M. Fanelly, Ohio
Mark A. Foster, Alaska
Stephen C. Hewlett, Utah

COMMITTEE ON GAS (1963)

Frank O. Heintz,* Maryland, *Chair*
John R. Smyth, Wyoming, *Vice Chair*
Joshua M. Twilley, Delaware
Leo M. Reinbold, North Dakota
Ruth K. Kretschmer, Illinois
Roland Priddle, Canada, Observer
David Lea Willis, Alberta PMC, Observer
Darrel L. Peterson, Minnesota PUC

Frederick L. Corban, Indiana
S. Peter Bickley, New Mexico PSC
Charles H. Thompson, Wisconsin PSC
Bruce B. Ellsworth,* New Hampshire
A.J. Pardini, Washington
Steven M. Fetter,* Michigan
Nancy Shimanek Boyd, Iowa UB
Henry G. Yonce,* South Carolina
Peter Bradford,* New York PSC
Bob Anthony, Oklahoma
Julius D. Kearney, Arkansas
Robert A. Rowan, Georgia
Jo Ann P. Kelly, Nevada
Wallace W. Mercer, Montana
C. William W. Darling, Ontario EB, Observer
Laurence A. Cobb, North Carolina
Richard D. Frum, West Virginia
Keith Bissell,* Tennessee
John B. Ohanian, California
Joan H. Smith, Oregon
Barbara Kates-Garnick, Massachusetts
Walter T. Kelly, Minnesota OPS, Observer
Patricia D. Perkins, Missouri PSC

COMMITTEE ON TRANSPORTATION (1983)

Claude M. Ligon,* Maryland, *Chair*
Eric Rasmussen, Nebraska, *Vice Chair*
Frank D. Cochran, Tennessee
R. Henry Spalding, Kentucky RC
William A. Bailey, Kentucky RC
Stephen T. Walker, Missouri DOT
Danny Oberg, Montana
Cecil A. Bowers, South Carolina
Myron B. Katz, Oregon
Jerome D. Block, New Mexico SCC
Louis E. Gallegos, New Mexico SCC
Frank E. Landis, Jr., Nebraska
Joseph Jacob Simmons, III,* ICC
Rose McKinney-James, Nevada
Gail C. McDonald, ICC
Christine E.M. Alvarez, Colorado
Jim Robinson, Kansas

COMMITTEE ON WATER (1967)

Paul G. Foran,* Illinois, *Chair*
Thomas E. Stephens, Nevada, *Vice Chair*
Dale H. Morgan, Arizona
Richard G. Patterson, Connecticut
Suzanne D. Rude, Vermont
Linda G. Bisson, New Hampshire
Charles H. Hughes, North Carolina
David L. Rauch, Missouri
Robert M. Davis, Kentucky PSC
Jerry D. Blakemore, Illinois
David E. Ziegner, Indiana
J. Michael Biddison, Ohio
Betty Easley, Florida
Jeremiah F. O'Connor, New Jersey
Lila M. Sapinsley, Rhode Island
Henry G. Williams, New York PSC
Jan Cook, Alabama
Mary Clark Webster, Massachusetts

*Member of the Executive Committee of the Association.

NARUC, like the Administrator of the North American Numbering Plan (Bellcore), and several other commentors, has serious reservations about the FCC's NPRM. Specifically, NARUC contends as follows:

- o **N11 SERVICE CODES SHOULD NOT BE USED FOR INDIVIDUAL ESPS.**
- o **THE FCC SHOULD COOPERATE WITH THE STATES TO DEVELOP GUIDELINES FOR THE USE OF N11 SERVICE CODES ON A NATIONWIDE BASIS FOR PUBLIC SERVICES.**
- o **THE FCC SHOULD INITIATE FURTHER INQUIRY INTO THE EXPANDED USE OF OTHER ABBREVIATED DIALING ARRANGEMENTS, SUCH AS NXX# AND NNX#.**
- o **If the FCC chooses to make N11 service codes or any other abbreviated dialing arrangements available for use with intrastate enhanced/information services, AT A MINIMUM, BOTH THE COMMUNICATIONS ACT AND GOOD POLICY REQUIRE THAT THE ASSIGNMENT OF THOSE CODES BE WITHIN THE JURISDICTION OF THE STATES. Under the Communications Act, clearly, jurisdiction to assign access codes for intrastate services lies with the states.**
- o **IF the FCC authorizes the use of N11 service codes or authorize any other type of abbreviated dialing plan, THEN THE FCC SHOULD ADOPT CONSUMER SAFEGUARDS LIKE THOSE PROPOSED BY NARUC IN ITS JULY 1991 RESOLUTION ON 900 PAY-PER-CALL SERVICE. [The text of this resolution is also attached to this letter for your information and use.]**
- o **NARUC opposes any Federal legislation or FCC Rules that would preclude states from enacting additional safeguards and/or more stringent rules for the use or N11 service codes or any other type of abbreviated dialing plan**

NARUC has taken these positions because -

- o **Use of N11 service codes and abbreviated dialing arrangements for enhanced service operations could lead to consumer confusion and complaints similar to those associated with 900/976 services.**
- o **Nationwide public service uses for N11 service codes, such as access to dual party relay services, could be undermined if N11 service codes are used unwisely.**
- o **Recall of an N11 service code from an Enhanced Service Provider (ESP) would lead to customer confusion and probable litigation.**

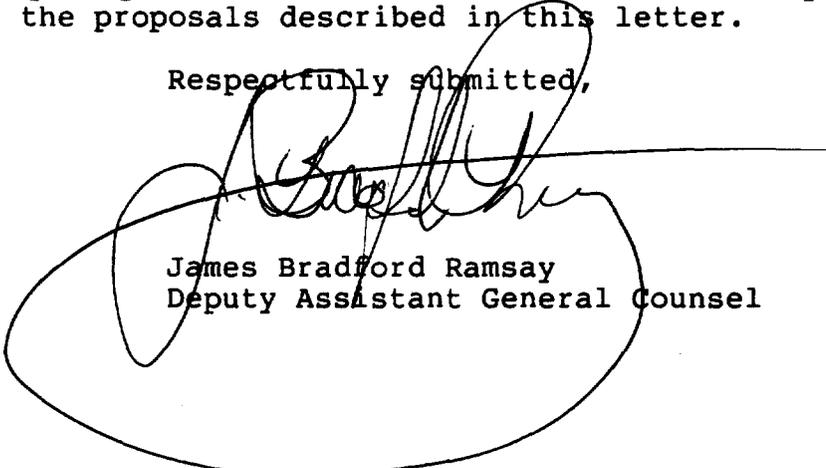
**Ms. Donna Searcy, Secretary
Federal Communications Commission
NARUC'S AUGUST 12, 1992 WRITTEN EX PARTE PRESENTATION**

Page -3-

- o The proposed use of N11 codes would be primarily for the provision of intrastate information and related services. Regulation of such services, including end user access to those services, is within the jurisdiction of the states.
- o Other abbreviated dialing arrangements, such as NNX# or NXX#, could be used for assignment to ESPs.

NARUC respectfully requests that the Commission carefully examine and implement the proposals described in this letter.

Respectfully submitted,



James Bradford Ramsay
Deputy Assistant General Counsel

NARUC'S JULY 1992

Resolution Opposing the Use of N11 Service Codes
for Enhanced Service Providers

WHEREAS, The Federal Communications Commission (FCC), on May 6, 1992, released a Notice of Proposed Rulemaking (NPRM) inviting comment on proposed rules concerning the use of N11 codes and other abbreviated dialing arrangements; and

WHEREAS, The FCC tentatively concluded in the NPRM that there should be federal rules governing the use of certain N11 service codes, that certain service codes should be available for use by Enhanced Service Providers (ESPs), and that local exchange carriers (LECs) should be permitted to select any reasonable code allocation method; and

WHEREAS, In the NPRM, the FCC invited comment on several subjects including recalling N11 codes from current or future uses, sale and transfer of N11 service codes, alternative dialing schemes, and the role of state commissions should have in the allocation of N11 numbers in the event demand exceeds supply; and

WHEREAS, N11 service codes, which are a subset of area codes, are a scarce numbering resource, with only eight (8) possible codes available, 211 through 911; and

WHEREAS, The use of any N11 code as a telephone number eliminates the potential use of the eight million (8,000,000) telephone numbers that normally subtend an area code thereby depleting this limited public resource; and

WHEREAS, N11 service codes may be needed for assignment as Number Plan Area (NPA) codes prior to the implementation of interchangeable NPAs in 1995; and

WHEREAS, The Administrator of the North American Numbering Plan (Bellcore) has recommended against the proposed use of the N11 service codes, for industry development of alternative abbreviated dialing capabilities, and for uniform use of 10-digit telephone numbers; and

WHEREAS, The use of N11 service codes and abbreviated dialing arrangements could lead to consumer confusion and complaints similar to those associated with 900/976 services; and

WHEREAS, The National Association of Regulatory Utility Commissioners (NARUC) proposed consumer safeguards for 900/976 services in its July 1991 'Resolution on 900 Pay-Per-Call Service'; and

WHEREAS, There may be nationwide public service uses for N11 service codes, such as access to dual party relay services, that could be undermined if N11 service codes are used in an unwise manner; and

WHEREAS, The recall of an N11 service code from an Enhanced Service Provider (ESP) would lead to customer confusion and probable litigation; and

WHEREAS, The use of N11 codes, as proposed, would be primarily for the provision of intrastate information and related services; and

WHEREAS, Regulation of intrastate information and related services, including end user access to those services, is within the jurisdiction of the states; and

WHEREAS, Other abbreviated dialing arrangements, such as NNX# or NXX#, could be used for assignment to ESPs; and now therefore be it

RESOLVED, That the Communications Committee of the National Association of Regulatory Utility Commissioners (NARUC), convened at its Summer Meeting in Seattle, Washington, opposes the use of N11 service codes for individual ESPs; and be it further

RESOLVED, That the FCC join in a cooperative effort with the States to develop guidelines for the use of N11 service codes on a nationwide basis for public services; and be it further

RESOLVED, That the FCC initiate further inquiry into the expanded use of other abbreviated dialing arrangements, such as NXX# and NNX#; and be it further

RESOLVED, That, if the FCC chooses to make N11 service codes or any other abbreviated dialing arrangements available for use with intrastate enhanced/information services, the assignment of those codes shall be within the jurisdiction of the states; and be it further

RESOLVED, Should the FCC act to authorize the use of N11 service codes for abbreviated dialing arrangements or authorize any other type of abbreviated dialing plan, the FCC should adopt consumer safeguards like those proposed by the NARUC in its July, 1991 Resolution on 900 Pay-Per-Call Service; and be it further

RESOLVED, That the NARUC opposes any Federal legislation or FCC Rules that would preclude states from enacting additional safeguards and/or more stringent rules for the use of N11 service codes or any other type of abbreviated dialing plan; and be it further

RESOLVED, That the NARUC General Counsel shall file papers and other documents supporting the policies of this resolution in the appropriate forums to further this recommendation.

Sponsored by the Committee on Communications
Adopted by NARUC's Executive Committee
Reported NARUC Bulletin No. 32-1992, page 6 (August 10, 1992).

**NARUC'S JULY 1991
Resolution On 900 Pay Per Call Service**

WHEREAS, Pay Per Call Information Service (900/976) generally refers to a telecommunications service which allows the simultaneous calling by large numbers of callers to a single "900/976" prefix telephone number and where the calling party is charged for the call at a rate different from, and often higher than, that charged for an ordinary long distance call for goods and/or services; and

WHEREAS, The provision of 900/976 service usually involves four parties; first, the interexchange carrier (IXC) who provides the tariffed transmission service and tariffed or non-tariffed billing and collection service; second, the information provider (IP) or sponsor who provides the service, entertainment, information, or product and sets the price to the caller; third, the local exchange carrier (LEC) who by contract or tariff provides billing and collection service for the IXC; and fourth, the service bureau who takes service from the IXC on behalf of the IP; and

WHEREAS, There are many 900/976 information providers offering useful services, however some IP services, entertainment and/or information are the subject of wide spread consumer complaints to state and federal communications regulatory agencies and Congress relating to high rates, inadequate disclosure of rates, deception, or rates out of proportion with the service received; and

WHEREAS, 900/976 service is the subject of various bills before Congress including HR-2330, HR-328, and S-471; and

WHEREAS, The Federal Communications Commission (FCC) has issued a notice of Proposed Rulemaking in CC Docket No. 91-65; and

WHEREAS, Several states are considering rulemakings or have instituted proceedings on 900/976 Services; now, therefore, be it

RESOLVED, That the Executive Committee of the National Association of Regulatory Utility Commissioners (NARUC), convened at its Summer Meeting in San Francisco, California, recommends that any Federal legislation or FCC rules adopted concerning 900/976 Service should include the following safeguards:

- o A preamble that discloses the name of the company, nature of the service and specific price. IPs collecting for charity must also disclose the name of the charity and the purpose of the fund raising. Programming directed at minors must also provide notification that parental permission is required before continuing with the call. Consideration may be given for waivers of the preamble for nominally priced services.
- o After the preamble, a sufficient period of time to allow the caller to hang up before incurring a charge.
- o A cap on the amount of charges for programming targeted at children.
- o A specific complaint procedure and refund or "adjustment" policy should be in place for 900/976 services.
- o States should have the flexibility to promulgate terms and conditions for blocking 900/976 services.
- o Consider where technically feasible a separate prefix and selective blocking for programs which contain sexually explicit material that would be considered "harmful" to minors.
- o A customer's basic telephone service cannot be disconnected for nonpayment of 900/976 charges.
- o A local or toll free number for disputes or inquiries must be included on the customer's bill.
- o All advertisements and promotional materials must clearly and conspicuously identify all charges for the call.
- o Advertisements directed towards children must contain a statement that parental permission is required before calls are placed.

NARUC'S AUGUST 12, 1992 WRITTEN EX PARTE PRESENTATION - ADDENDUM

- o Provision of the name, address, and business phone number of an information provider by the carrier/billing agent at any customer's oral or written request, in a reasonable time and at no cost.
- o Disconnection of programs which do not comply with State and Federal requirements or which are found to be fraudulent; and be it further

RESOLVED, That NARUC Executive Committee opposes any Federal legislation or FCC rules that would preclude States from adopting additional safeguards and/or more stringent rules; and be it further

RESOLVED, That the NARUC General Counsel will file comments concerning NARUC's position on 900/976 service with the appropriate agencies or Congressional committees considering rules or bills and distribute this resolution to members for their consideration.

Sponsored by the Committee on Communications
Adopted July 24, 1991
Reported NARUC Bulletin No. 31-1991, pages 9-11